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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/930,721

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Max Douglas Oyler

9D-DW-19866

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7590

06/14/2005

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EXAMINER

WILKENS, JANET MARIE

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/930,721

Applicant(s)

OYLER ET AL.

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 7-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,7 and 17-21 is/are allowed.
- 6) ☒ Claim(s) 3-5 and 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Attachment B</u> |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 3, "said appliance" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-10, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hughes et al. Hughes teaches a unitary outer door panel (Fig. 1; see Attachment B; when assembled door forms a unitary structure) for a dishwasher comprising: a frame (1, a and b which when attached together form a single piece) with lateral sides (2), a top edge (8) and a bottom edge (9), an outer surface (3) extending from the frame and including a bowed portion (5) between the sides and edges and an angled recessed control panel/mounting surface (4) extending from the outer surface and between the lateral sides and edges. The outer surface has a portion which extends between the

control panel/mounting surface and the top edge of the frame (at 6). Furthermore, the outer door panel is attached to an inner panel (7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes et al in view of Cracraft et al. As stated above, Hughes teaches the limitations of claims 8-10, 14 and 15, including a door panel having an outer surface with a recessed control panel/mounting surface. For claims 11, 12, and 16, Hughes fails to teach that the panel/surface(s) includes a cutout with an escutcheon therein. Cracraft teaches an appliance (Fig. 1) having a surface which contains a cutout (48) with a plastic escutcheon (14) received therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the door panel of Hughes by using a specific control means therein, i.e. using the control panel provided by Cracraft therein instead of the means presently shown, depending on the desired need of the person constructing the panel. Furthermore, these control panels are functional equivalents and either would work equally well in the door of Hughes.

For claim 13, Hughes fails to teach that the outer surface of the door is specifically made of a single piece of metal. However, first, it would have been obvious to one of ordinary skill in the art at the time of the invention make the door out of any of a number of different materials, including metal, depending on the desired need of the person designing/constructing the appliance, e.g. for aesthetic reasons, depending on the material readily available, etc. Second, to use one sheet of metal to provide these features would have been obvious, for economic reasons, etc.

Allowable Subject Matter

Claims 1, 7 and 17-21 are allowed.

Claims 3-5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed March 7, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Hughes fails to teach the outer surface/frame as claimed: the examiner contends that Hughes does teach the outer surface/frame as claimed, as shown by number 1 in Attachment B. The outer surface, comprised of members a,b, which are attached together to form a single piece, does including a portion 6 that extends between the control mounting surface 4 and the top

edge 8 of the frame/panel. What applicant describes as the "control panel", the examiner is defining as the top portion 8 of the frame, part of the outer surface 3 and the recessed control mounting surface 4. Please note that the frame and surfaces together make up the door panel.

In response to applicant's argument that there is no suggestion to combine the references: the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Cracraft is being used only for its teaching of a control panel. Hughes, as shown in Fig. 1, teaches a "generic" control panel wherein Cracraft teaches a specific control panel which would be an obvious alternate/specific type of control panel to use on the door panel of Hughes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens
June 9, 2005

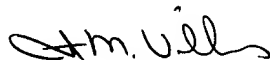

JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637

Fig.1

